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08/288,415 08/10/94 BRUGGER

F 4719658A

EXAMINER

BAWA, E

ART UNIT

PAPER NUMBER

1615

14

DATE MAILED: 04/10/98

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 12-12-97 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- ☐ Notice of References Cited by Examiner, PTO-892.
- ☐ Notice of Draftsman's Patent Drawing Review, PTO-948.
- ☐ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐ \_\_\_\_\_

**Part II SUMMARY OF ACTION**

1. ☒ Claims 2-15 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2. ☐ Claims \_\_\_\_\_ have been cancelled.

3. ☐ Claims \_\_\_\_\_ are allowed.

4. ☒ Claims 2-15 are rejected.

5. ☐ Claims \_\_\_\_\_ are objected to.

6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

**EXAMINER'S ACTION**

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### **DETAIL ACTION**

Claims 2-15 are still rejected under 35 U.S.C. 103(a) as being unpatentable over Gennaro in view of Stetz et al..

Applicant's arguments filed on 12-12-97 have been fully considered but they are not persuasive.

A clear case of prima facie obviousness has been established in view of the art and reason of record.

Contrary to the applicants' assertion, Gennarto does disclose internal coatings analogous to those claimed therein.

The cited art is analogous because it pertains to the field of the inventor's endeavor and is also reasonably pertinent to the particular problem with which the inventor is involved. *In re Wood*, 202 USPQ 171, 174. Note that a comprising-type language does not exclude other steps, elements of materials. *Cues Inc. Vs Polymer Industries*, USPQ2d 1847 (DC ND CA 1988). Moreover, (I) it is well established that the claims are given the broadest interpretation during examination; and (ii) a conclusion of obviousness under 35 USC 103

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does not require absolute predictability, only a reasonable expectation of success. Also the examiner emphasizes that references are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures.

*In re Bozek*, 163 USPO 545 (CCPA 1969). No comparative data over the closest prior art demonstrating any unexpected results and/or improvements has been established.

In light of the foregoing discussion, the Examiner's ultimate legal conclusion is that the subject matter defined by the claims would have been obvious within the meaning of 35 U.S.C. 103.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the

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date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Raj Bawa whose telephone number is (703) 08-2423. The examiner can normally be reached on Tuesday-Friday from 7:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, T. K. Page, can be reached on (703) 308-2927. The appropriate fax phone number for the organization where this application or proceeding is assigned is (703) 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

BAWA:tcj  
March 17, 1998

  
**RAJ BAWA, Ph.D.  
PRIMARY EXAMINER  
GROUP 1600**